

**UNITED STATES DEPARTMENT OF COMMERCE****Patent and Trademark Office**

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
08/950,445	10/15/97	KEJHA	J JBK-6

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PM82/0716

EXAMINER	
VANAMAN, F	
ART UNIT	PAPER NUMBER
3611	21

DATE MAILED: 07/16/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary	Application No. 08/950,445	Applicant(s) Kejha	Examiner Frank Vanaman	Art Unit 3611		
	<i>-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --</i>					

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 3/15/01 and 4/24/01

2a) This action is **FINAL**. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-33 is/are pending in the application.

4a) Of the above, claim(s) 1-9 and 13-33 is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 10-12 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claims _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are objected to by the Examiner.

11) The proposed drawing correction filed on Mar 15, 2001 is: a) approved b) disapproved.

12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

13) Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

a) All b) Some* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

*See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

15) Notice of References Cited (PTO-892)

16) Notice of Draftsperson's Patent Drawing Review (PTO-948)

17) Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____

18) Interview Summary (PTO-413) Paper No(s). _____

19) Notice of Informal Patent Application (PTO-152)

20) Other: _____

Art Unit: 3611

Status of Application

1. Claims 1-33 are pending, claims 1-9 and 13-33 having been withdrawn from consideration as directed to non-elected inventions, claim 34 having been canceled. An Office action on the merits of claims 10-12 follows.

Drawings

2. The proposed drawing correction filed on March 15, 2001 has been approved.

Claim Rejections - 35 USC § 103

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

4. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over West (US 3,517,766) in view of Minami et al. (US 5,462,021, filed 03/1993; 07/1994). West teaches a passenger vehicle which rides on 1-4 wheels (2r, 2f), and at least 2 wheels, as broadly claimed, having a body (1) an internal combustion engine (14) which is not sealed from the atmosphere, a pair of generators (16, 17) driven by the engine, a battery (10) connected to the generators and motor (11), the electric motor (11) connected to both the battery and generators, the motor for driving the vehicle, wherein the vehicle is further provided with a steering system (6, 7). The reference of West fails to teach the internal combustion engine as being fueled by hydrogen obtained from an on-board storage system.

Minami teaches a vehicle (109) which is provided with an internal combustion engine (1) which is fueled by hydrogen which is obtained from an on-board storage system (2), the use of a hydrogen engine being preferred in view of the well known "clean" emission properties of hydrogen engines (col. 1, lines 16-17). It would have been obvious to one of ordinary skill in the art at the time of the invention to replace the internal combustion engine and fuel source of the vehicle of West with a hydrogen engine and fuel supply as taught by Minami et al. for the purpose of greatly reducing vehicle emissions, as specifically taught by Minami.

Art Unit: 3611

5. Claims 10-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over West (US 3,517,766) in view of Munday (US 5,143,025). West teaches a vehicle riding on 1-4 wheels, having a body, an internal combustion engine which is not sealed from the atmosphere, a pair of generators driven by the engine, a battery connected to the generators and motor, the electric motor connected to both the battery and generators, the motor for driving the vehicle, wherein the vehicle is further provided with a steering system. The reference of West fails to teach the engine as being powered by hydrogen, the hydrogen being obtained through the electrolysis of water from a generating cell, and stored not under pressure, the cell electrically connected to the generators and battery.

Munday teaches a very low emission (col. 1, lines 1-31) vehicle engine (10) operated on a hydrogen fuel from hydrogen obtained from a hydrogen storage element (16) which directly feeds hydrogen generated by electrolysis of water in a cell (36, 40, note col. 3, lines 5-20), to the engine and stores the hydrogen under no additional pressure, the cell being electrically connected (58, 64) to a source of electricity. It would have been obvious to one of ordinary skill in the art at the time of the invention to replace the engine and fuel source of the vehicle of West with a hydrogen engine and fuel supply as taught by Munday for the purpose of greatly reducing vehicle emissions, as specifically taught by Munday.

The reference of Munday fails to specifically teach that the electric supply be from both a generator and a battery, however, in view of the vehicle of West featuring both a battery and a pair of generators, it would have been obvious to one of ordinary skill in the art at the time of the invention to allow selective connection of the generating cell of Munday to either electricity source (i.e., the battery and/or generators), for the purpose of allowing the cell to be operative under circumstances wherein one or the other of the sources is not in operation.

Response to Arguments

6. Applicant's comments have been considered but are not persuasive.

Art Unit: 3611

As regards the reference to Minami, it appears as though applicant is attempting to rely upon a disclosure document which was filed more than two years previous to the filing of the parent application (January 12, 1993 being more than two years prior to January 17, 1995). Applicant is reminded of the following which concerns the treatment of disclosure documents:

MPEP 1706 Disclosure Documents [R-1]

**>A service provided by the U.S. Patent and Trademark Office (PTO) is the acceptance and preservation for two years of "Disclosure Documents" as evidence of the date of conception of an invention.

THE PROGRAM

A paper disclosing an invention (called a Disclosure Document) and signed by the inventor or inventors may be forwarded to the PTO by the inventor (or by any one of the inventors when there are joint inventors), by the owner of the invention, or by the attorney or agent of the inventor(s) or owner. The Disclosure Document will be retained for two years, and then be destroyed unless it is referred to in a separate letter in a related patent application filed within those two years.

THE DISCLOSURE DOCUMENT IS NOT A PATENT APPLICATION, AND THE DATE OF ITS RECEIPT IN THE PTO WILL NOT BECOME THE EFFECTIVE FILING DATE OF ANY PATENT APPLICATION SUBSEQUENTLY FILED. LIKE PATENT APPLICATIONS, THESE DOCUMENTS WILL BE KEPT IN CONFIDENCE BY THE PATENT AND TRADEMARK OFFICE. [emphasis in original]

As regards the combination of the references to West and Minami as well as West and Munday, applicant's arguments concerning various features of the invention which are not recited in the claims are noted, but applicant is reminded that although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

As regards applicant's contention (points "1" on pages 3, 4, and 5) that no reason for the desirability of the combination is set forth, applicant's attention is specifically directed to the reference of Minami at col. 1, lines 16-17 and Munday at col. 1, lines 1-31 which both disclose the desirability of the use of hydrogen fuel in internal combustion engines for the very desirable

Art Unit: 3611

result of lower emissions. As regards the reference of Munday not providing particular details concerning the provision of electric power, the examiner would suggest a reading of Munday at col. 4, lines 61-64, col. 5, lines 20-22, and col. 5, line 59 through col. 6, line 51. In view of Munday's description of the power system, and the use of a DC supply (note col. 6, lines 45-48, for example), it would not be considered beyond the skill of the ordinary practitioner to connect the DC operated system of Munday to a DC vehicle source as taught by West.

As regards applicant's contention (points "2" and "3") that the references fail to specifically teach the combinations, note, for example, the reference of Munday at col. 2, lines 37-39, where Munday specifically refers to the application of a hydrogen fuel system to an existing internal combustion engine, in this case that of the vehicle taught by West.

Further as regards applicant's contention that the specific combination must be suggested by the references, this is not the case. Indeed, a conclusion of obviousness may be made from common knowledge and common sense of the person of ordinary skill in the art without any specific hint or suggestion in a particular reference (see *In re Bozek*, 416 F.2d 1385, 1390, 163 USPQ 545, 549 (CCPA 1969)), with skill being presumed on the part of the artisan, rather than the lack thereof (see *In re Sovish* 769 F.2d 738, 742, 226 USPQ 771, 774 (Fed. Cir. 1985)); further, references may be combined although none of them explicitly suggests combining one with the other (see *In re Nilssen* 7 USPQ2d 1500 (Fed. Cir. 1989)).

As regards applicant's contention of an unexpected result (point "4"), applicant has provided no evidence that an unexpected result has been achieved.

In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure,

Art Unit: 3611

such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

Applicant is also reminded that the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981).

Particularly in this case, in view of both the references of Munday and Minami teaching the desirability of the reduced emissions associated with the use of a hydrogen fuel, and with the further specific teaching in Munday which specifically refers to the application of a hydrogen fuel system to an existing internal combustion engine, these references do suggest the combination by suggesting that (1) the use of a hydrogen fuel will result in an improvement in emissions and (2) that the hydrogen fuel system may be used with existing engines.

Conclusion

7. Applicant is reminded that claims 1-9 and 13-33 are withdrawn from consideration and have not been treated in this office action.
8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Art Unit: 3611

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Frank Vanaman whose telephone number is (703) 308-0424. Any inquiry of a general nature or relating to the status of this application should be directed to the group receptionist whose telephone number is (703) 308-1113.

Any response to this action should be mailed to:

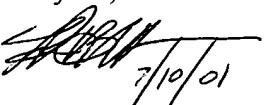
Assistant Commissioner for Patents
Washington, DC 20231

or faxed to :

(703) 305-3597 or 305-7687 (for formal communications intended for entry;
informal or draft communications may be faxed to the same number but should be
clearly labeled "UNOFFICIAL" or "DRAFT")

FRANK B. VANAMAN
Patent Examiner
Art Unit 3611

Frank Vanaman
July 10, 2001


7/10/01